

Interagency Task Force on Worker Classification

Third Annual Report - December 31, 2022

Background: On September 11, 2020, Governor Parson issued *Executive Order 20-15* creating the Interagency Task Force on Worker Classification. The task force was charged with facilitating communication of investigations and enforcement of worker misclassification matters by the Departments of Labor and Industrial Relations (DOLIR), Revenue (DOR), Commerce and Insurance (DCI), and other relevant agencies. This includes, but is not limited to:

- Examining and evaluating existing misclassification enforcement by agencies;
- Facilitating sharing among Task Force members of information related to suspected worker misclassification violations, in a timely manner as permitted by law;
- Developing recommendations for pooling, focusing, and targeting investigative and enforcement resources;
- Assessing existing methods, both within Missouri and in other jurisdictions, of preventing, investigating, and taking appropriate enforcement actions against worker misclassification violations, and to develop best practices for participating agencies to improve their prevention and enforcement efforts;
- Working cooperatively with business, labor, and community groups interested in reducing worker misclassification, including but not limited to: 1) seeking ways to prevent worker misclassifications, such as through the further dissemination of educational materials and community outreach regarding the legal difference between independent contractors and employees; and 2) enhancing mechanisms for identifying and reporting worker misclassification where it does occur;
- Increasing public awareness and community outreach to explain the illegal nature of and harms caused by worker misclassification; and
- Reviewing statutes and regulations related to worker misclassification and recommending any appropriate changes to relevant legislation or administrative rules.

The Task Force reports to Governor by December 31st of each year, with a final report due by the end of 2024.

First Task Force Meeting of 2022: March 18, 2022, 2:00 p.m.

Topic of Discussion: Investigating Complaints

After Director Anna Hui, Task Force Chair, called the meeting to order and a quorum was established, the Committee heard several presentations on complaint investigations. Three of

the presenters were from the Department of Labor and Industrial Relations (DOLIR), and one was from the Department of Revenue (DOR). DeSheila Milton, Chief of the Division of Employment Security's Unemployment Insurance Tax Section, discussed the 20-factor IRS test and questionnaire her section uses to analyze issues of worker classification. Milton also provided a misclassification tip hotline, (573) 751-1099. Kurt Mueller, Investigations Manager of the Division of Workers' Compensation Fraud and Noncompliance Unit (FNU), discussed the FNU investigation process. Common issues before the FNU include: 1) employers' failure to ensure liability, 2) false information from an employee regarding injury, 3) stakeholder interference with claims or benefits, and 4) failure to report an injured worker. Brenda Hentges, Wage and Program Manager with the Division of Labor Standards, discussed how her division investigates minimum wage, prevailing wage, and child labor complaints. Mike Murray, DOR counsel, discussed his department's role in addressing worker misclassification and noted that DOR enforces employer withholding obligations pursuant to Chapter 143, RSMo.

At the conclusion of the presentations, Chair Hui stated that as DOLIR continues to revamp its website, her department would explore a customer journey mapping process. Chair Hui also stated the possibility of adding Spanish or other language translation to the website and the desire to address constituent gaps.

Second Meeting of 2022: November 8, 2022, 2:30 p.m.

Rule Changes and Customer Journeys

After Chair Hui called the meeting to order and a quorum was established, Todd Smith, Director of DOLIR's Division of Labor Standards, and Andrea Follett, DOLIR General Counsel, discussed USDOL's Wage and Hour proposed rule to amend how employees and independent contractors are classified. Smith presented informational slides from USDOL, and Follett discussed DOLIR's obligations pursuant to Chapters 285, 287, and 288, RSMo. As a part of the rulemaking process, USDOL received comments from stakeholders through December 13, 2022. Representatives from DOR, DCI, and the Missouri Attorney General's Office noted that they did not have additional comments regarding the proposed rule, and Chair Hui stated that DOLIR did not plan to submit comments to USDOL.

Nick Omland, DOLIR Public Relations Coordinator, presented information about the Department's recent customer journey mapping process. Omland stated that as a part of the mapping, 22 different "personas" were considered. The Department received 464 survey responses from different constituents/website users and conducted 20 in-depth interviews with citizens and employers. Omland reported that no one who completed the survey or participated in the interview mentioned worker misclassification.